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Attorneys for Defendant  
FIDELITY NATIONAL  
TITLE INSURANCE CO.

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

KENNETH BARKER, and LOIS  
ANNE BARKER,

Plaintiffs

v.

DEFAULT RESOLUTION  
NETWORK; FIDELITY NATIONAL  
TITLE; MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC.;  
ALBORG, VEILUVA & EPSTEIN;  
TITLE COURT SERVICES INC.;  
GENPACT MORTGAGE SERVICES;  
DOES 1 through 50, inclusive,

Defendants.

Case No. 08 CV 02898 CW

**DEFENDANT FIDELITY  
NATIONAL TITLE INSURANCE  
CO.'S NOTICE OF MOTION AND  
MOTION TO DISMISS CAUSES OF  
ACTION CONTAINED IN THE  
COMPLAINT FOR FAILURE TO  
STATE A CLAIM (Rule 12(b)(6))**

**[Filed Concurrently with  
Memorandum of Points and  
Authorities]**

Date: August 28, 2008  
Time: 2:00 P.M.  
Ctvm: 2  
Judge: Hon. Claudia Wilken

1 TO PLAINTIFFS KENNETH BARKER and LOIS ANNE BARKER:

2 PLEASE TAKE NOTICE that defendant FIDELITY NATIONAL TITLE  
3 INSURANCE CO. will and hereby does move this Court pursuant to Rule 12(b)(6)  
4 of the Federal Rules of Civil Procedure to dismiss for failure to state a claim as to  
5 each of the causes of actions in the complaint. This motion will be heard on August  
6 28, 2008, at 2:00 p.m., in the United States District Court for the Northern District  
7 of California, Oakland, California, before the Honorable Claudia Wilken, United  
8 States District Judge, in Courtroom 2.

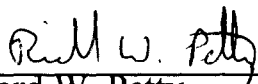
9 The motion to dismiss pursuant to Rule 12(b)(6) is and will be made on the  
10 following grounds: that Plaintiffs' purported causes of action for violations of the  
11 Racketeer Influenced and Corrupt Organizations Act are not legally cognizable  
12 claims.

13 Accordingly, Defendant will move for dismissal of those causes of action,  
14 with prejudice.

15 The motion is and will be based on this Notice of Motion, the Memorandum  
16 of Points and Authorities in Support of Defendant's Motion, and upon all papers,  
17 records and pleadings on file with the court.

18 Dated: July 3, 2008

Respectfully submitted,  
HOLLAND & KNIGHT LLP

20   
21 Richard W. Petty

22 Attorneys for Defendant  
23 FIDELITY NATIONAL TITLE INSURANCE CO.

24 # 5449717\_v1

***Barker et al. v Default Resolution; Fidelity National Title; et al.***

U.S. District Court- California Northern District (Oakland)

Civil Case No. 08 CV 02898 CW

**PROOF OF SERVICE**

State of California )  
County of Los Angeles ) ss.

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 633 West Fifth Street, 21st Floor, Los Angeles, California 90071.

On July 3, 2008, I served the document described a **DEFENDANT FIDELITY NATIONAL TITLE INSURANCE CO.'S NOTICE OF MOTION AND MOTION TO DISMISS CAUSES OF ACTION CONTAINED IN THE COMPLAINT FOR FAILURE TO STATE A CLAIM (Rule 12(b)(6))** on the interested parties in this action, enclosed in a sealed envelope, addressed as follows:

**SEE ATTACHED SERVICE LIST**

☒ **[BY MAIL]** Following ordinary business practices, I placed the document for collection and mailing at the offices of Holland & Knight LLP, 633 West Fifth Street, 21st Floor, Los Angeles, California 90071, in a sealed envelope. I am readily familiar with the business's practice for collection and processing of correspondence for mailing with the United States Postal Service, and, in the ordinary course of business, such correspondence would be deposited with the United States Postal Service on the day on which it is collected at the business.

☐ **[BY UPS]** Following ordinary business practices, I placed the document for collection and UPS delivery, "next day air" at the offices of Holland & Knight LLP, 633 West Fifth Street, 21st Floor, Los Angeles, California 90071. I am readily familiar with the business' practice for collection and processing of correspondence for delivery by UPS (Next Day Air), and, in the ordinary course of business, such correspondence would be deposited with UPS on the day on which it is collected at the business.

X I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 3, 2008, Los Angeles, California.

  
Yvonne Fernandez

***Barker et al. v Default Resolution; Fidelity National Title; et al.***

U.S. District Court- California Northern District (Oakland)

Civil Case No. 08 CV 02898 CW

Service List

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**Plaintiff, *pro se***

**Plaintiff, *pro se***

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